



JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

May 4, 2010

TO: Board of Oil, Gas and Mining

THROUGH: John R. Baza, Director *JB*

THROUGH: Gil Hunt, Associate Director, Oil and Gas *GH*

FROM: Steve Schneider, Administrative Services & Policy Coordinator *Steve*

SUBJECT: Recommended Repeal of Oil & Gas Rule R649-4, Five-Year Review

In accordance with the Utah Administrative Rulemaking Act, each rule shall be reviewed within five years of the rule's original effective date or the filing of the last five-year review. Oil and Gas rule R649-4, Determination of Well Categories Under the Natural Gas Policy Act of 1978, was previously renewed on November 8, 2005 and is therefore due for review.

Rule R649-4 was adopted as a state rule due to Section 503 of the Natural Gas Policy Act of 1978 ("NGPA") which granted state oil and gas boards the authority to make well category determinations on state and fee minerals. The NGPA included incentive price ceilings for certain natural gas reservoirs such as tight formation gas. There were 575 Board cause numbers handled through March 1994 to address wells drilled or recompleted through December 31, 1992. While this rule was originally repealed in October 1994, the rule was reinstated at a Board hearing in December 2000 since FERC requested states in July 2000 to open a window for additional applications for well category determinations to be submitted and approved for the original drilling period ending December 31, 1992. The Board approved only one additional filing in January 2003.

The Division recommends repeal of Rule R649-4 as it is no longer necessary. Over seven years have passed since the last well category determination was requested for certain wells drilled through December 31, 1992, and the Division does not anticipate any more requests. The FERC website confirms they have discontinued accepting dockets for well category determinations. In addition, the oil and gas rules for the nearby states of New Mexico, Colorado, Wyoming, Montana and North Dakota were searched and they no longer contain such rule.

Assuming no objections from the Board, the Division would then file a short formal petition with the Board to repeal the rule like prior Board practice. We will be available to answer questions at the Board briefing on May 26 or Steve can be reached at 801-538-5328.

Attachment



R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.

R649-4. Determination of Well Categories Under the Natural Gas Policy Act of 1978.

R649-4-1. Definitions.

1. Unless the context specifically requires otherwise, any special words, terms, or phrases used in the Section and not defined in Section 1 have the meanings defined under the Natural Gas Policy Act of 1978 (NGPA), and applicable Federal Energy Regulatory Commission (FERC) rules and regulations.

R649-4-2. Applications.

An operator requesting the classification of a well or reservoir pursuant to the authority granted to the Board by Section 503 of the NGPA, in order to enable the Board to determine the applicable category for any such well or reservoir pursuant to Title 1 of the NGPA, shall:

1. File the original and two copies of a written application made upon forms prescribed by the Board together with supporting documentation, including all information, data, forms, plats, maps, exhibits, and evidence as may be required by the applicable statutes, rules, and regulations. An application may be amended, supplemented, or withdrawn by the applicant at any time prior to the Board determination.

1.1. Complete an individual application as to each well for which a status determination is being requested. If more than one status determination is being requested for a single well, all forms and information required for each requested determination shall be submitted jointly under one application, with notice to the Board that multiple determinations for one well are being sought under the application.

1.2. File an affidavit as to the truthfulness and correctness of all information contained in the application, including all documents, testimony, and evidence attached to or submitted with the application.

1.3. Certify that the purchaser and owners of the natural gas for which the determination is being submitted, have been served by personal delivery or by mail, postage prepaid, with a copy of the application, including a complete FERC Form 121, excluding required supporting documents.

R649-4-3. Notice and Hearing.

1. Upon receipt of an application for a well status determination under the NGPA, the Board shall:

1.1. Notify the applicant of the receipt of the application;

1.2. Determine the completeness of the application. If the application is incomplete in any respect, the Board shall indicate to the applicant the items to be filed which would make the application complete;

1.3. Assign a cause number to each application, determine a hearing date for each complete application, and notify the applicant of the cause number and hearing date;

1.4. Cause notice of hearing to be given.

2. If the same applicant has filed for multiple well determinations or for multiple determinations as to any well, the

published notice of hearing may include more than one well or reservoir in one notice.

R649-4-4. Determination and Orders.

1. Following notice and hearing, the Board shall issue a determination and order for each complete application.

2. If no response or protest to the application is filed with the Board, an application may be considered and a determination may be made by the Director or a designated hearing examiner on the basis of sworn testimony, depositions, or affidavits, together with all exhibits, forms, and other matters properly filed with the Board. Such matters shall comprise the transcript of the hearing on which the determination is based.

3. An applicant may also request consideration and a determination by the Director or a designated hearing examiner by filing a letter with the Board agreeing that the determination can be made by the Director without the necessity of an appearance by the applicant. The Board may, however, upon its own motion, require an evidentiary hearing with sworn testimony to be held upon any application following proper notice. In the event the Board determines that a hearing is required, the Board shall notify the applicant at least ten days prior to the scheduled hearing date.

R649-4-5. Notice of Determination.

Within five days after the last day for filing a motion for rehearing, or, if such a motion is filed, within 15 days after it is denied or overruled by operation of law, the Board shall give written notice to the FERC of its determination and order.

KEY: oil and gas law

Date of Enactment or Last Substantive Amendment: January 3, 2001

Notice of Continuation: November 8, 2005

Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.